IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.1396 OF 2002

Pankaj D. Chheda ....Plaintiff
V/s.
M/s.Sai Rachana Developers & Ors. ....Defendants

Mr.L.H. Rambhia for the Plaintiff.
None for the Defendant.

CORAM : S.J. VAZIFDAR, J.
DATED : 14TH DECEMBER, 2005.

P.C. :

1. By a detailed order dated 6.4.2005, the following order was passed :

> ""Accordingly, I pass the following order :
>
> "The defendants are granted unconditional leave to defend the suit to the extent of claim of interest to the extent of Rs.9,96,295/-. The defendants are granted conditional leave to defend the suit regarding rest of the claim of the plaintiff subject to their depositing in court the agreed amount of Rs.38,03,705/- and interest of Rs.14,00,000/-.The principal amount of Rs.38,03,705/- to be deposited within a period of eight weeks and interest of Rs.14,00,000/- within sixteen weeks. On deposit of the money, the plaintiff shall be entitled to withdraw the agreed amount of Rs.38,03,705/- by furnishing security to the satisfaction of the Prothonotary and Senior Master. The

> amount of interest of Rs.14,00,000/- if deposited, shall be invested in nationalised bank of the choice of the defendants if such choice is indicated at the time of deposit or else in the Bank of India, Main Branch, Fort, Mumbai initially for a period of 13 months to be renewed from time to time till disposal of the suit."
>
> . On deposit of the money suit shall stand transferred to the list of commercial causes. The defendants shall file the written statement within one month.""

2. The Defendants have failed to comply with the conditions.

3. The Plaintiff has filed the compilation of the original documents. The same is taken on record and marked Exhibit "A" collectively.

4. As far as the amount of Rs.38,03,705/- and interest of Rs.14,00,000/- is concerned, there is no defence to the suit. It is clearly an admitted amount.

5. There is no appearance. There is no written statement. There is no reply to the Plaintiff's advocate notice demanding payment. There is nothing on record that militates against the Plaintiff's

claim. This is a fit case where the averments and the submissions in the plaint ought to be accepted as correct.

6. In the circumstances, the suit is decreed in the sum of Rs.52,03,705/- with interest thereon at the rate of 12% p.a. from the date of filing of the suit till payment and/or realisation.